

# Cooley

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VIA ECF

June 28, 2017

Judge Kiyo A. Matsumoto  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Martin Shkreli, No. 15-CR-00637 (KAM)

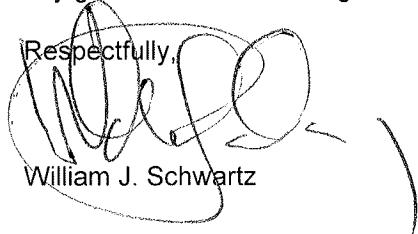
Dear Judge Matsumoto:

We represent Retrophin. We write to address the Company's interest in preventing inadvertent disclosures of attorney-client communications during the trial of Mr. Shkreli.

As the Court knows, Retrophin has waived its attorney-client privilege with respect to its communications with Katten on all the subjects encompassed by the Retrophin-related charges in the case (the "Waiver"). It has not waived its privilege with respect to any other communications with Katten, nor has it waived its privilege with respect to any communications with my firm, Cooley LLP, which succeeded Katten as outside counsel, or with Meg Valeur-Jensen, who became acting general counsel on a part-time basis in July 2014 and then its general counsel in November 2014.

Since the Waiver covers all of the Retrophin-related charges, Retrophin is hopeful that neither the government nor the defense will seek to elicit privileged communications on other subjects or with other counsel. However, in the unlikely event that either party intends to ask questions of current or former Retrophin employees that might reveal privileged communications not covered by the Waiver, we ask that they raise the issue with us or with the Court at a recess or break, so that the Court can make the appropriate ruling with as little interference to the trial as possible. In the event such a question is asked without prior discussion, we respectfully request that a Cooley lawyer sitting in the gallery of the courtroom be permitted to rise and object on the ground of privilege.

Retrophin's sole concern in making this request is to preserve its privilege. We would appreciate any guidance the Court might offer about how to implement Retrophin's request.

Respectfully,  
  
William J. Schwartz

cc: Counsel for all parties (Via ECF)